

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 34

August 25, 2003

**SUBJECT: PRIVATE PERSON'S ARREST PROCEDURES - REVISED**

**PURPOSE:** Effective January 1, 2003, California Penal Code (PC) Sections 847 and 142 were amended to eliminate a conflict between state and federal law regarding private person's arrests. Under state law, officers had been required to accept all private person arrests, regardless of legality, or face possible criminal charges. However, doing so made officers potentially liable for violating federal law as it relates to an unlawful detention. Therefore, officers are no longer legally compelled to take custody of a private person's arrest if probable cause cannot be established that the arrest was lawful.

This Order revises Department procedure regarding an officer's responsibility at the scene of a private person's arrest.

**PROCEDURE:**

- I. PRIVATE PERSON'S ARREST.** If an individual makes a private person's arrest and requests that an officer take a person into custody; officers shall do so if there is probable cause to believe a criminal offense has been committed or an arrest warrant has been issued for the person being arrested.

**Note:** Officers are not precluded from completing a Preliminary Investigation Report, Form 3.1, for filing of a criminal complaint instead of arrest, if the arresting person agrees.

- II. PRIVATE PERSON'S ARREST - ILLEGAL.** When a private person's arrest is or appears to be illegal, the individual requesting police action shall be advised of the provisions of Section 847 PC. If the individual insists on the arrest, they shall be referred to the Office of the City Attorney.

Additionally, officers shall:

- \* Not take custody of the person;
- \* Notify a supervisor of the incident;
- \* Complete a Field Interview Report, Form 15.43, on all of the involved parties; and,
- \* Complete an Employee's Report, Form 15.7, documenting the circumstances of the incident.

**AMENDMENTS:** This Order amends Sections 4/216.31 and 4/216.32 of the Department Manual.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Detective Bureau, shall monitor compliance with this directive in accordance with Manual Section 0/080.30.

**WILLIAM J. BRATTON**  
Chief of Police

**Distribution "A"**